

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities, LLC

Plaintiff,

v.

BERT MARGOLIES TRUST; LAURIE ANN
MARGOLIES CHILDREN'S TRUST DTD
11/1/08; LAURIE ANN MARGOLIES,
individually and in her, capacity as Trustee for
the Bert Margolies Trust and the Laurie Ann
Margolies Children's Trust dtd 11/1/08;
NANCY DVER COHEN, in her capacity as
Trustee for the Bert Margolies Trust; and
FERNANDO C. COLONOSORIO, M.D.,

Defendants.

Adv. Pro. No. 10-04859 (SMB)

**STIPULATION AND ORDER DISMISSING DEFENDANT NANCY DVER COHEN
WITHOUT PREJUDICE**

WHEREAS, on December 2, 2010, Irving H. Picard, as trustee ("Trustee") for the liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the "Adversary Proceeding") against the Bert Margolies Trust; Laurie Ann Margolies

Children's Trust Dtd 11/1/08; Laurie Ann Margolies, individually and in her capacity as Trustee for the Bert Margolies Trust and the Laure Ann Margolies Children's Trust Dtd 11/1/08; Nancy Dver Cohen, in her capacity as Trustee for the Bert Margolies Trust; and Fernando C. Colon-Osorio, M.D. (the "Defendants") in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendant Nancy Dver Cohen submitted to the Trustee a hardship application that was later supplemented (the "Hardship Application") requesting that the Trustee agree to dismiss her from the Adversary Proceeding. In support of the Hardship Application, Defendant Nancy Dver Cohen submitted to the Trustee financial statements, supporting documentation and other information, all under penalty of perjury;

WHEREAS, in reliance on the representations made by Defendant Nancy Dver Cohen in the Hardship Application and other representations and/or materials submitted by Defendant Nancy Dver Cohen in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion determined to dismiss Defendant Nancy Dver Cohen from the Adversary Proceeding;

WHEREAS the Trustee, on the basis of the foregoing representations, has agreed to dismiss Defendant Nancy Dver Cohen from this Adversary Proceeding without prejudice under certain terms as set forth in this Stipulation;

IT IS HEREBY agreed and stipulated between the Trustee and Defendant Nancy Dver Cohen as follows:

1. Defendant Nancy Dver Cohen hereby affirms (i) that all representations made by her and all materials provided by her have been submitted as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to

dismiss Defendant Nancy Dver Cohen from the Adversary Proceeding.

2. Defendant Nancy Dver Cohen hereby agrees that (i) to the extent it is subsequently determined that she deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application or her dismissal from the Adversary Proceeding, Defendant Nancy Dver Cohen hereby agrees (i) that the Trustee shall have the right to reinstitute the Adversary Proceeding against her and/or pursue other remedies available to him and (ii) that Defendant Nancy Dver Cohen agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendant Nancy Dver Cohen hereby agrees to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendant Nancy Dver Cohen hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, Trustee's claims against Defendant Nancy Dver Cohen are dismissed without prejudice.

4. The Clerk of this Court is hereby directed to amend the caption to remove Defendant Nancy Dver Cohen, as reflected on Exhibit A to this Stipulation.

5. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: December 23, 2016

<p>IRVING H. PICARD, TRUSTEE FOR THE SIPA LIQUIDATION OF BERNARD L. MADOFF INVESTMENT SECURITIES LLC</p> <p>By: <u>/s/ Nicholas J. Cremona</u> David J. Sheehan Nicholas J. Cremona BAKER & HOSTETLER LLP 45 Rockefeller Plaza New York, New York Telephone: (212) 589-4200 Fax: (212) 589-4201</p> <p><i>Attorneys for Irving H. Picard, Esq., Trustee for the SIPA Liquidation of Bernard L. Madoff Investment Securities LLC</i></p>	<p><u>/s/ Nancy Dver Cohen</u> Nancy Dver Cohen</p> <p>By: <u>/s/ Jeffrey D. Sternklar</u> Jeffrey D. Sternklar JEFFREY D. STERNKLAR LLC 26th Floor 225 Franklin Street Boston, MA 02110 Telephone: (617) 396-4515 Email: Jeffrey@stenklarlaw.com</p> <p><i>Attorney for Defendant Nancy Dver Cohen</i></p>
---	--

SO ORDERED:

By: /s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Date: December 23, 2016

EXHIBIT “A”

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities, LLC

Plaintiff,

v.

BERT MARGOLIES TRUST; LAURIE ANN
MARGOLIES CHILDREN’S TRUST DTD
11/1/08; LAURIE ANN MARGOLIES,
individually and in her, capacity as Trustee for
the Bert Margolies Trust and the Laurie Ann
Margolies Children’s Trust dtd 11/1/08; and
FERNANDO C. COLONOSORIO, M.D.,

Defendants.

Adv. Pro. No. 10-04859 (SMB)